

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

LOL FINANCE COMPANY,

Plaintiff,

vs.

**ROBERT P. JOHNSON and KERI J.
MALOLEY, Individually and d/b/a PAUL
JOHNSON & SONS CATTLE CO., INC.,
JOHN DOE, ABC COMPANY, and FIRST
NATIONAL BANK OF OMAHA,**

Defendants

**PAUL JOHNSON & SONS CATTLE CO.,
INC.,**

Third-Party Plaintiff,

vs.

**MAVERICK FEEDERS, INC., a South
Dakota corporation, SHON SAWYER and
JULIE SAWYER, husband and wife,**

Third-Party Defendants.

NO. 09-CV-3224

Judge Kopf

**STIPULATION REGARDING
MAVERICK FEEDERS, INC.'S
SECOND MOTION TO AMEND ITS
CROSS CLAIM AND
COUNTERCLAIM**

First National Bank of Omaha ("FNBO") and Maverick Feeders, Inc. ("Maverick"), by and through their respective counsel, stipulate as follows:

1. Maverick has filed a Second Motion to Amend Its Cross-Claim and Counterclaim (Filing No. 170) along with a proposed Amended Cross-Claim and Counterclaim (Filing No. 170-1)
2. The proposed amendment was not drafted to assert any new or additional claims

against FNBO that were not asserted in Maverick's January 15 cross-claim.

3. Maverick and FNBO therefore agree and stipulate that in the event the Court grants Maverick's motion (Filing No. 170), the corresponding order should not be construed as granting Maverick leave to assert a claim against FNBO for conspiracy to commit fraud or deceit.

4. This stipulation is presented to clarify Maverick's position in regard to Filing No. 170-1 only, and should not be construed as having any other purpose. The parties reserve all rights under the Local Rules and the Federal Rules of Civil Procedure not inconsistent with this stipulation.

Dated this 8th day of October, 2010.

First National Bank of Omaha, Defendant,

By: /s/Thomas O. Kelley
William F. Hargens (#16578)
Thomas O. Kelley (#22667)
McGrath North Mullin & Kratz, PC LLO
Suite 3700 First National Tower
1601 Dodge St.
Omaha, Nebraska 68102
Phone: (402) 341-3070
Fax: (402) 341-0216
whargens@mcgrathnorth.com
tokelley@mcgrathnorth.com

Attorneys for Defendant, First National
Bank of Omaha

Maverick Feeders, Inc., Cross-Claimant,

By: /s/Shawn M. Nichols

Shawn M. Nichols
Cadwell Sanford Deigbert & Garry, LLP
200 East 10th Street, Suite 200
Sioux Falls, SD 57104
Phone: (605) 336-0828
Fax: (605) 336-3036
snichols@cadlaw.com

Attorney for Maverick Feeders, Inc., Shon
Sawyer and Julie Sawyer

CERTIFICATE OF SERVICE

I certify that on the 8th day of October, 2010, I electronically filed the foregoing document with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to the following:

Mark D. Raffety
mraffety@dominalaw.com

Shawn M. Nichols
snichols@cadlaw.com

Jonathan C. Miesen
JCMiesen@stoel.com

/s/Thomas O. Kelley
Thomas O. Kelley